

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Johnson Analyst: Jane Tolman Bill Number: SB 263

Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: 07-09-2001

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Limited Liability Partnerships and Limited Liability Companies/Notice To Pay Annual Tax

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as as amended March 19, 2001.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 19, 2001. STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would require the Secretary of State (SOS) to include in the registration instructions for limited liability partnerships (LLPs) and in the articles of organization instructions for limited liability companies (LLCs) notification that the entities are obligated to pay an annual tax to the Franchise Tax Board (FTB).

## SUMMARY OF AMENDMENT

The July 9, 2001, amendments deleted the words "minimum franchise" in the term "minimum franchise tax." As a result, one of the department's implementation considerations was resolved. The remaining unresolved implementation considerations are included below. The remainder of the department's analysis of the bill as amended March 19, 2001, still applies.

## IMPLEMENTATION CONSIDERATIONS

Provisions of the bill relating to the tax imposed on LLCs refer to the annual tax imposed on LLCs not classified as corporations. However, the provision of current law being amended is applicable to the creation of all LLCs, including LLCs classified as corporations, which are not subject to this annual tax. LLCs classified as corporations for tax purposes are subject to the corporate income and franchise tax, and where applicable, the applicable minimum franchise tax. As a result, the bill, as amended, may confuse some taxpayers regarding the tax obligations of LLCs.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

08/01/01

LLPs and LLCs organized in this state are not just required to pay an annual tax for the year they organize, but they also are required to pay an annual tax for each taxable year thereafter until they cease to exist as an LLP or LLC. The author may wish to remove or revise the phrase “for that calendar year” to eliminate any confusion.

As a technical matter, the tax imposed on LLPs and LLCs is imposed for an accounting period referred to as a taxable year. The bill refers to the tax as being imposed for a calendar year.

#### **LEGISLATIVE STAFF CONTACT**

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